UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,714	06/30/2000	Stefan Hack	34874-268	2503

64280 7590 04/20/2007

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
9255 TOWNE CENTER DRIVE
SUITE 600
SAN DIEGO, CA 92121

EXAMINER	
STERRETT, JONATHAN G	
ART UNIT	PAPER NUMBER
3623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/609,714	HACK ET AL.	
	Examiner	Art Unit	
	Jonathan G. Sterrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1-25-2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-77* is/are pending in the application.

4a) Of the above claim(s) *21-25,55-57 and 66* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20,26-54,58-65 and 67-77* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Summary

1. This Final Office Action is responsive to the amendment of 25 January 2007. **Claims 1-77** are pending in the application. **Claims 21-25, 55-57 and 66** are withdrawn. **Claims 1-20, 26-54, 58-65 and 67-77** are rejected.

2. The Applicant's arguments filed January 25, 2007 have been fully considered but they are not persuasive.

3. The applicant argues on page 24 with respect to the applicant's claims, that a prima facie case of obviousness has not been made because the cited combination, Stephens and Oota, do not "teach or suggest each and every element" of the applicant's claims.

The examiner respectfully disagrees.

In response to applicant's argument that Stephens and Oota do not teach each and every element of the applicant's claims, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

4. The applicant argues with respect to Claim 6 on page 24 that the Stephens reference fails to teach that the SCOR model provides for modeling flow data where the flow data includes at least one of the roles of the participants and information flow between the participants.

The examiner respectfully disagrees.

The scope of the "Source" element of SCOR is to highlight that within the SCOR approach is a model that takes into account four main supply chain processes – these are Plan, Source, Make and Delivery. The examiner further points out on page 24 is a SCOR diagram where the P, S, M and D arrows correspond to various activities and flows within a supply chain. Not only do these arrows represent information flows between participants (e.g. the connected arrows illustrate information flows between these arrows), they also represent the roles of the participants with respect to the four main (PSMD per above) supply chain activities. By modeling roles and information flows (and as well material flows), SCOR provides an effective tool for mapping out and improving a company's supply chain.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., OEM, importer and dealer and vehicle specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. The applicant argues with respect to Claim 6 on page 25 that Stephens fails to teach deriving a second graphical depiction from a first graphical depiction and the flow data.

The examiner respectfully disagrees.

As is noted on page 20 and pages 23 and 24, the SCOR model provides for depicting a second graphical depiction (page 24 is a SCOR Level 2 model derived from the Level 1 model illustrated on page 23). The Level 2 model is configured based on the flow data that is identified in a Level 1 model. The flow data is represented in SCOR as information flow and materials flow that illustrate how a supply chain is being managed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 1-20, 26-54, 58-65 and 67-77** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Stephens**, Scott; "Supply Chain Council & Supply Chain Operations Reference (SCOR) Model Overview", May 1999, pp.1-31, (hereinafter **Stephens**) in view of **Oota** US 5,740,341 (hereinafter Oota).

Regarding **Claim 6**, Stephens teaches:

Receiving business collaboration data;

Page 13, the SCOR model is based upon receiving business collaboration data (i.e. data to map out a supply chain is collaboration data).

rendering, using a data processing system, a first graphical depiction of a sequence of interactions between the participants based on the business collaboration data, the first graphical depiction including polygons being juxtaposed to indicate the sequence of interactions and

p12, SCOR teaches identifying participants in the supply chain – this chart identifies the participants and the interactions (plan source make or deliver) that show the interlocking supply chains between each company. The sequence and participants are shown, because the chain begins at a supplier's supplier, who delivers goods through the supply chain of a supplier to 'your company'.

P15, the Source, Make and Deliver infrastructure arrows are depicted as polygons juxtaposed to indicate the sequence and participants (i.e. suppliers and customers). – see also page 24 where polygons are laid out on a diagram from left to right to indicate the sequence of interactions according to the "Plan" supply chain.

the polygons being positioned relative to columns, wherein each column represents a participant and wherein a polygon overlapping at least two adjacent columns represents interactions between participants represented by the adjacent columns;

Page 24, the polygons indicating the various activities within the three columns, where the three columns represent three different participants in the supply chain collaboration. Note that the SCOR example provided by Stephens shows a "P4" arrow that overlaps the participants "Apha" and "Alpha Regional Warehouse", i.e. represents a SCOR P4 interaction between the columns represented by the two supply chain participants.

identifying flow data from the business collaboration data, the flow data including at least one of roles of the participants and information flow between the participants; and

page 17, the "manage sourcing infrastructure" SCOR flow identifies flow (i.e. interaction) data between the customer and supplier participants (e.g. vendor contracts) as well as their roles.

electronically deriving, using the data processing system, a second graphical depiction derived from the first graphical depiction and the flow data, the second graphical depiction depicting the flow data, wherein at least one of roles of the participants and information flow between the participants is illustrated in the second graphical depiction using a link between the polygons

Page 14, SCOR illustrates the rendering a second graphical depiction of the first graphical depiction of the flow data on more than one level – from Level 1 to Level 2, Level 2 to Level 3, and as well, from Level 3 to Level 4.

Page 25 shows callout boxes that are depicted between the polygons – these boxes shows the roles of the participants in achieving various supply chain metrics. These boxes are illustrated by a link between the SCOR "P" polygons.

Stephens does not teach implementing the SCOR model with a computer system.

Oota teaches implementing a process design system using a computer system.

Oota addresses difficulties with graphical layout and design to make it easier to a user to move graphical elements around on a display (i.e. to shift them) so that an optimum layout is achieved (one that is optimum as viewed visually on the display by a user). Oota also teaches the use of constraints in optimizing placement by having the computer calculate and determine that layouts at least meet constraints for how they are designed.

Stephens addresses using graphical representations of the supply chain, where the elements are interconnected to represent a supply chain.

Oota addresses using graphical representations of an engineering layout where the elements are connected to represent a process.

Stephens teaches that a supply chain configuration (in how elements are laid out and connected with each other) can be graphically reconfigured to represent improvements in a supply chain.

Oota teaches that an industrial process configuration (in how process elements are laid out and connected with each other) can be graphically reconfigured to optimize the functionality of the process with respect to its environment (column 21 line 35-37).

Oota teaches that updating second variables that depend on a first variable, where the first variable relates to the area that a first depiction covers is useful to help a user optimize graphical placement of elements.

Oota and Stephens are thus analogous art because they are both addressing using graphical displays to help a user optimize the layout and function of a process (Stephen's process is the supply chain – Oota's process is industrial).

It would have been obvious to one of ordinary skill in the art of supply chain management at the time of the invention, to modify the teachings of Stephens, regarding using the SCOR model to graphically represent a supply chain where graphical changes in the supply chain impact the efficiency of that supply chain, to include the step of modeling the SCOR model on a computer system that reflect locations of supply chain elements, because it would make it easy for a user to optimize the layout of the supply chain, as it was represented graphically.

Regarding **Claim 7**, Stephens teaches:

Rendering a third graphical depiction depicting a system topology used by each participant.

Page 14, the SCOR level 3 depicts a system topology used by each participant in representing and organizing their supply chain.

Regarding **Claim 8**, Stephens teaches:

wherein rendering the first graphical depiction includes representing a plurality of interactions depicted as interlocking polygons.

Page 14, 15, SCOR level one representation represents a plurality of supply chain interactions (i.e. plan, source, make, deliver) that are depicted as interlocking polygons (i.e. interlocking solid arrows).

Regarding **Claim 9**, Stephens teaches:

wherein rendering the graphical depictions includes vertically aligning representations of interactions involving one of the participants.

Page 15, the M0 ("Make" infrastructure shows representations of interactions involving a participant that is manufacturing according to make-to-stock, make-to-order and engineer-to-order. See also page 24 "Alpha Warehouse" has vertically aligned plan activities associated with the warehouse.

Regarding **Claim 10**, Stephens teaches:

wherein rendering the graphical depictions includes vertically aligning representations of business benefits, wherein the business benefits correspond to at least one participant.

Page 25, the representations of business benefits are vertically aligned where these benefits correspond to a least the participants represented by P1, P2, P3 and P4. These are SCOR Level 2 metrics.

Regarding **Claim 11**, Stephens teaches:

wherein rendering the graphical depictions includes vertically aligning representations of quantifiable business benefits, wherein the quantifiable business benefits provide a basis for ROI calculations.

Page 25, the net cash flow increase from order management cost reductions and FG inventory reductions provide a cash flow basis for return on investment calculations.

Regarding **Claim 12**, Stephens teaches:

producing a link from the first graphical depiction to the second graphical depiction.

Page 20, The application of the SCOR methodology shows how a link is provided from the operations strategy to the intra-company configuration (i.e. from Level 1 to Level 2).

Regarding **Claim 13**, Stephens teaches:

wherein rendering the second graphical depiction includes providing additional information regarding interdependency of the participants.

Page 20, the SCOR level 2 configuration shows the inter and intra company interdependency between the supply chain participants. – see also page 14 "SCOR level 1".

Regarding **Claim 14**, Stephens teaches:

wherein rendering the second graphical depiction includes depicting a sequence of activities.

Page 14, the SCOR level 2 depicts the sequence of activities to show a company's supply chain configuration – see also page 23.

Regarding **Claim 15**, Stephens teaches:

wherein rendering the second graphical depiction includes depicting information sharing between participants.

Page 24, a SCOR level 2 shows the planning information being shared between the supply chain participants (the P1, P2, P3 and P4 and all "Plan" information being shared according to the SCOR "Plan" of Plan, Source, Make and Deliver).

Regarding **Claim 16**, Stephens teaches:

wherein rendering the second graphical depiction includes depicting roles in the collaboration.

Page 14, the Level 2 SCOR model depicts roles in the supply chain collaboration by depicting which process categories apply to a company's supply chain (e.g. make to order, configure to order, make to stock). – see also Page 20, SCOR Level 2.

Regarding **Claim 17**, Stephens teaches:

wherein rendering the second graphical depiction includes depicting features in the collaboration.

Page 14 – the SCOR level two provides for a depiction of the actual supply chain configuration (i.e., including the features of that collaboration) – see also page 23 for a Level two SCOR model for a supply chain overview of North America, including features of that supply chain – e.g. note D1 supplier in Florida.

Regarding **Claim 18**, Stephens teaches:

wherein rendering the third graphical depiction includes depicting the availability of IT components.

Page 14, the SCOR Level 3 (see "Comments") identifies "System Capabilities required to support best practices" – see also page 20 where Level 3 SCOR provides for the depiction of system elements (i.e. the availability of IT components).

Regarding **Claim 19**, Stephens teaches:

wherein rendering the third graphical depiction includes depicting distributed and centralized systems.

Page 14, the Level 3 SCOR (i.e. the third graphical depiction) highlights system capabilities required to support best practices, i.e. including distributed and centralized systems.

Regarding **Claim 20**, Stephens teaches:

wherein the third graphical depiction is derived from the second graphical depiction and contains additional information regarding the collaboration between participants.

Page 14, the Level 3 SCOR model is a process decomposition of the Level 2 (i.e. is derived from the second graphical depiction) and contains more detailed supply chain information regarding the supply chain collaboration between a company, its suppliers and customers (i.e. the supply chain participants).

Regarding **Claim 67**, Stephens teaches:

Wherein a polygon within one column represents an activity performed by the participant represented by the column.

Page 24, the various SCOR polygons represent supply chain activities performed by the three different supply chain participants represented by the three columns.

Regarding **Claim 73**, Stephens teaches:

Wherein the link comprises at least one of a line, a triangle and a callout.

Page 24, links between the participants is illustrated by lines between the SCOR polygons – these lines illustrated both information flow and material flow.

Claims 1-5, 26-54, 58-65, 68-72 and 74-77 recite limitations similar to those addressed by the rejection of **Claims 6-20, 67 and 73** above, and are therefore rejected under the same rationale.

Conclusion

8. The examiner notes that the Stephens reference can be found by going to: http://web.archive.org/web/19991128154034/www.supply-chain.org/html/scor_overview.cfm A zipped file of the Stephens Powerpoint™ presentation can be downloaded. As of the mailing date of this action, the document is still available for download. Since the original presentation is in color, some detail is not as clear in black and white version included in this and previous office actions. This note is placed here for the convenience of the applicant.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Is your supply chain playing by the rules?

Perry A Trunick. Transportation & Distribution. Cleveland:Sep 1998. Vol. 39, Iss. 9, p. 51-55 (4 pp.)

Supply Chain Council: Growing, branching out

Anonymous. Modern Materials Handling. Boston:Nov 1998. Vol. 53, Iss. 13, p. 20-21 (2 pp.)

SCM: Another acronym to help broaden enterprise management

Lawrence S Gould. Automotive Manufacturing & Production. Cincinnati:Mar 1998. Vol. 110, Iss. 3, p. 64-69 (6 pp.)

Putting an end to islands of manufacturers

Anonymous. Modern Materials Handling. Boston:Feb 1998. Vol. 53, Iss. 2, p. 40-41 (2 pp.)

Efficient supply chain practices mean big savings to leading manufacturers

Allen Allnoch. IIE Solutions. Norcross:Jul 1997. Vol. 29, Iss. 7, p. 8-9 (2 pp.)

DNA spells supply chain integration

Marty Weil. Manufacturing Systems. Wheaton; March 1999. pg. 10 A

ProQuest Document ID 39994647.

Workflow Automation Crosses Company Lines

David Joachim. InternetWeek. Manhasset. April 6, 1998, Iss 709; pg.PG S.04

ProQuest Document ID 28441803.

SAP and Microsoft Work Together to Establish Common Business Frameworks for Electronic-Commerce Content

Business Editors, High-Tech Writers. BusinessWire. New York; Mar 4, 1998. pg1.

ProQuest Document ID 39464102

Distributed embedded Intelligence blazing processing trails

Robert L Moore, InTech; Mar 1997; 44, 3; Research Library pg 50.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS

JGS 04072007

Romain Jeanty
Primary Examiner
Art Unit 3623